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No. 82-1877

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1982

UNITED STATES OF AMERICA, PETITIONER

v.

MARIO VALDERRAMA LITONJUA, ET AL.,
RESPONDENTS

BRIEF OF RESPONDENTS OTHER THAN MARIO VALDERRAMA LITONJUA IN RESPONSE TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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QUESTION PRESENTED

Whether the Court of Appeals properly ruled that the United States was collaterally estopped from relitigating a question of constitutional law by the judgment of a district court in a prior case, involving the same subject matter, in which the question was resolved adversely to the United States and in which the United States voluntarily withdrew its appeal.

PARTIES INCLUDED IN THIS RESPONSE

This response to the petition of the United States for a writ of certiorari is submitted only on behalf of respondents Antolin Punsalan Pangilinan, Panfilo Jabalde, Fidel Zosimo Usi Canilao, Antonio Patdo Tantay, Arcadio Revilla Nepomuceno, Dionisio Vallejos Lucas, Oliver Juan Posadas, Vincente Miranda Belizario, Rodolfo DeJesus Batac, Pedro Dumlao Ponciano, Cesar Jocson Ascalon, Winifredo Pableo Bello, Bonifacio Leoncio Zarcal and Benjamin Natividad Bonus.

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RESPONSE

The parties included in this response to the petition for a writ of certiorari do not oppose the request of the United States that the petition be held for appropriate disposition in light of United States v. Mendoza, No. 82-849.

However, the respondents herein do not agree that, in every event, their cases need

be controlled by the decision in United States v. Mendoza. See Petition at 9. There are instances in which a decision in favor of the United States in the Mendoza case would not control the present cases. For example, Mendoza would not affect the present cases at all if this Court should decide in the Mendoza case that the United States should not be collaterally estopped because the factual circumstances of the case (namely, Dr. Mendoza's residence in the United States during a portion of the time that the special naturalization examiner had been removed from the Philippines) should not preclude an independent determination of Dr. Mendoza's right to naturalization. See Petitioner's Brief at 39-42, United States v. Mendoza, No. 82-849. In such an event, the respondents herein

would be entitled to a separate assessment of the issue of collateral estoppel because they resided in the Philippines for the entire time in question.

In conclusion, a decision in favor of the United States in United States v. Mendoza should not deprive the respondents herein of the opportunity to brief and argue their own cases.

Respectfully submitted,

Donald L. Ungar
Attorney for Respondents
Named Herein

June 21, 1983